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IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1942

No. 533

DISTRICT UNEMPLOYMENT COMPENSATION  
BOARD,

*Petitioner,*

vs.

INTERNATIONAL REFORM FEDERATION,  
a body corporate,

*Respondent.*

PETITION FOR WRIT OF CERTIORARI TO THE UNITED  
STATES COURT OF APPEALS FOR THE DISTRICT OF  
COLUMBIA.

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No.

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DISTRICT UNEMPLOYMENT COMPENSATION  
BOARD,

*Petitioner,*

vs.

INTERNATIONAL REFORM FEDERATION,  
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*Respondent.*

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PETITION FOR WRIT OF CERTIORARI TO THE UNITED  
STATES COURT OF APPEALS FOR THE DISTRICT OF  
COLUMBIA.

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Your petitioner, District Unemployment Compensation Board, respectfully prays that a writ of certiorari issue to review a decision of the United States Court of Appeals for the District of Columbia made on September 21, 1942, reversing a judgment in its favor which was entered in the District Court of the United States for the District of Columbia on June 17, 1941. The action in the District Court was a suit

seeking to enjoin the petitioner from requiring the respondent to make reports and to pay unemployment compensation contributions to the petitioner and seeking a declaratory judgment defining the relative rights of the parties under the District of Columbia Unemployment Compensation Act, c. 726, 49 Stat. 1888, Title 46, Section 301 (b) (7), D. C. Code. The respondent contended that it was a corporation organized and operated exclusively for charitable, religious or educational purposes within the meaning of paragraph 7 of Section 1 (b) of the District of Columbia Unemployment Compensation Act, 49 Stat. 1888, Title 46, Section 301(b) (7), D. C. Code. The findings of fact and conclusions of law which were made by the District Court are not reported but they are printed in the record, (R. 12). The opinion of the United States Court of Appeals for the District of Columbia is not yet reported but it is printed in the record, (R. 28). The dissenting opinion of Mr. Justice Miller may be found in the record, (R. 37).

### **Jurisdictional Statement.**

The jurisdiction of this Court is based on Section 240 of the Judicial Code, 43 Stat. 938; U. S. C. A. (1940 ed.), Title 28, Section 347. Judgment was entered by the United States Court of Appeals for the District of Columbia on September 21, 1942. The petition for rehearing before a full bench of six judges was denied by the Court on October 15, 1942. The jurisdiction of the District Court of the United States for the District of Columbia was based on Title 11, Section 306, D. C. Code, 19 Stat. 253, and U. S. C. A. (1940 ed.), Title 28, Sec. 400, 48 Stat. 955, 49 Stat. 1027. The jurisdiction of the United States Court of Appeals for the District of Columbia was based on Title 17, Section 101, D. C. Code, 27 Stat. 435.

### **Question Presented.**

The sole question involved in this case is whether or not the respondent is a corporation organized and operated *exclusively*

for charitable, religious or educational purposes within the scope and intent of paragraph 7 of Section 1(b) of the District of Columbia Unemployment Compensation Act (Act of June 23, 1936, Public No. 762—74th Congress, c. 726, 49 Stat. 1888, Title 46, Section 301, D. C. Code).

### Summary and Short Statement of the Matters Involved.

The following facts all appear in the agreed statement of evidence (R. 22) and the findings of facts made by the District Court (R. 12).

The respondent in its original form was organized in 1896, under the name The International Reform Bureau. In 1923, the respondent changed its name to the International Reform Federation. The objects and purposes for which the respondent was organized as set forth in Article II, Section 1 of its Constitution are:

- (1) The *promotion* of those *reforms* on which the churches sociologically agree while theologically differing;
- (2) The *enactment* and enforcement of laws prohibiting the alcoholic liquor traffic;
- (3) The *enactment* and enforcement of laws prohibiting the white slave traffic;
- (4) The *enactment* and enforcement of laws prohibiting harmful drugs;
- (5) The *enactment* and enforcement of laws prohibiting kindred evils in the United States and throughout the world;
- (6) The *defense* of the Sabbath;
- (7) The *defense* of purity;
- (8) The *suppression* of gambling;
- (9) The *suppression* of political corruption; and

- (10) The substitution of arbitration and conciliation for both industrial and international war.

Article 4, Section 2 of the respondent's Constitution gives the General Superintendent power to employ and discharge a *Law Enforcement Director* and a *Legislative Superintendent* whose duties are to conduct campaigns (a) for the enactment and enforcement of laws, (b) for the adoption or repeal of constitutional amendments, state and Federal, or (c) for the election of public officials whenever, in the judgment of the Legislative Superintendent, there is a moral issue at stake of sufficient consequence to justify participation of the respondent. The respondent's Constitution further provides in Article 4, Section 5, that there shall be a *Legislative Director* who shall have charge, under the direction of the General Superintendent, of securing the enactment of good Federal and state laws effecting morals and defeating or repealing bad legislation. The offices of Legislative Superintendent and Legislative Director have been filled since January 1, 1936 (the effective date of the District of Columbia Unemployment Compensation Act) by some official of the respondent or by the General Superintendent himself.

An official pamphlet of the respondent entitled, "The Object, Methods, and Achievements of the International Reform Federation," on page 3 states that the respondent has secured the enactment of eighteen acts of Congress, and on pages 5 and 6 lists the eighteen "Legislative Victories". On page 13 of this same pamphlet thirty subjects are listed on which some type of legislation has been recommended by the respondent. These subjects include: amount of betting odds, Bible exclusion from public schools, billiard rooms open Sundays, carnival shows, change of venue to avoid honest judges, child marriages, cigarette sales to children, picture films on crime and lust, polygamous teachings, prize fighting, run away marriages and Sunday public sports, theatres and stores. At the trial in



the District Court, the respondent's General Superintendent testified that this pamphlet was still being distributed by the respondent as a representation of its past and present work.

In the report of a hearing before a committee of the House of Representatives on the establishment of a racing board, an official of the respondent testified in behalf of the respondent. His testimony is recorded on pages 44 through 56. On page 8 of the June 1937 issue of the "Twentieth Century Progress," an official organ of the respondent, there is contained an article entitled, "A Going Concern." This article states that for forty-one years the respondent has been writing laws for thirty-six states of the Union on such subjects as gambling, lotteries, red light abatement, the liquor and narcotic traffic, Sabbath observance, Bible in the public schools, marriage and divorce. In a letter dated June 2, 1939, from the respondent to the petitioner, it was stated that the thirty-four laws, to which reference had been made by an official of the respondent, were enacted by the local state and national authorities either at the respondent's suggestion or drawn by the respondent's legal department on request, as was the Federal statute prohibiting interstate transport of prize fight films.

Counsel for the petitioner and the respondent stipulated at the trial in the District Court that the respondent attempts to accomplish its objects and purposes by:

1. The *dissemination* of literature and pamphlets containing informational material, statistics and other data on its various objectives;
2. The *carrying on* of a propaganda program by active work before Congressional committees and committees of state legislatures; and
3. The *drafting* of proposed laws to be introduced in the Congress of the United States and the various state legislatures.

It was further stipulated that the respondent is not operated for profit.

At the trial in the District Court, the plaintiff offered as a witness, Clinton N. Howard, General Superintendent of the respondent, who testified that he had been connected with the respondent in one capacity or another for many years. This witness testified that the respondent has maintained headquarters in Washington, D. C. and outside the District of Columbia expending much money in Asiatic countries in the suppression of the opium traffic, having sent to foreign countries many thousands of dollars for scientific temperance purposes and for other purposes. He further testified that the respondent maintained a department of law enforcement chiefly engaged in the suppression of race track gambling, purging the mails and newsstands of erotic literature and the enforcement of moral laws in the cities, counties and states. He further testified that the respondent's literature department is made available for schools, libraries and churches and that its official magazine, now called "The Twentieth Century Progress," of which he was editor, was mailed to libraries, churches, ministers, moral leaders and *to members of the United States Congress and the state legislatures* when moral issues are pending. The witness further testified that the respondent was supported by voluntary contributions from members in every state of the Union, from church budgets, voluntary offerings, and the income from an endowment fund in the original sum of \$50,000 provided by the will of its first General Superintendent, Dr. William F. Crafts. Mr. Howard stated that the respondent had no salaried officers except himself and an office staff of two.

The witness further testified that *part* of the work of the respondent consisted of the presentation of facts and arguments against immoral and illegal conditions throughout the various sections of the United States. He testified that *one* of the respondent's purposes was to cooperate with religious, charitable and educational organizations similarly engaged. The witness further testified that the respondent has devoted

part of its time, part of the time of its employees and part of its income in fighting for the prohibition of the alcoholic liquor traffic, the white slave traffic, traffic in harmful drugs, defense of the Sabbath and purity, the suppression of gambling and political corruption and the substitution of arbitration and conciliation for both industrial and international war. Mr. Howard further testified that the respondent, during his superintendency and before, had engaged in efforts to secure new legislation and modification of existing legislation in accordance with its charter. The witness stated that the efforts of the respondent to secure such legislation was not one of its chief purposes but incidental and secondary thereto and that the time and efforts used in securing new legislation had been very little in comparison with the time used in the other activities of the respondent.

It was stipulated by counsel that on July 29, 1938, the District Unemployment Compensation Board ruled that the respondent must file reports and pay contributions as an employer under the District of Columbia Unemployment Compensation Act. On June 27, 1939, upon reconsideration after an oral hearing before the full Board, at which the respondent was represented by counsel and its General Superintendent, this ruling was affirmed.

#### **Reasons Relied Upon for the Allowance of the Writ of Certiorari.**

1. The United States Court of Appeals for the District of Columbia has rendered a decision in conflict with decisions of the United States Circuit Court of Appeals for the Second Circuit in the case of *Slee v. Commissioner of Internal Revenue*, 42 Fed. (2d) 184, and the United States Circuit Court of Appeals for the First Circuit in the case of *Vanderbilt et al. v. Commissioner of Internal Revenue*, 95 Fed. (2d) 360. The facts in the instant case show conclusively that the respondent was organized for broad, general promotional, propaganda, legislative and political purposes and that the respondent

engages in broad, general promotional, propaganda, legislative and political *activities*. The decisions of the First and Second Circuits mentioned above hold that if these purposes and activities are shown to exist, a corporation cannot qualify under an exemption statute which requires that it shall be organized and operated *exclusively* for charitable, religious or educational purposes, even if the other purposes and activities of the corporation would admittedly fall within the exemption classification. The dissenting opinion of Mr. Justice Miller (R. 37) proves beyond any doubt that the Slee Case in Second Circuit and the instant case are undistinguishable, and that the majority decision in the instant case is in the teeth of the decisions of both the First Circuit and the Second Circuit.

2. The decision of the United States Court of Appeals for the District of Columbia involves a question of general importance. The unemployment compensation statutes in all of the forty-eight states of the United States have exemption provisions similar to the provision which was construed by the United States Court of Appeals for the District of Columbia. Twenty-five of these states have exemption provisions which are identical with the exemption provision in the instant case. The Federal Social Security Act, 49 Stat. 643, as amended, 53 Stat. 1384, U. S. C. A., (1940 ed.), Title 26, Sec. 1426 (b) (8), likewise has an exemption provision which is similar to the exemption provision in the District of Columbia Unemployment Compensation Act. In sweeping terms the Court's opinion has given a broad and all-inclusive meaning to the words "charitable purposes" and holds that that term as used in the exemption statute in the District of Columbia Unemployment Compensation Act is synonymous with the word "charity" as that word has been liberally construed in the "charitable trust" cases. In so holding the Court has lost sight completely of the purpose of Congress in enacting the District of Columbia Unemployment

Compensation Act. That purpose was to ameliorate the hardships occasioned by involuntary unemployment and to extend this beneficial social legislation to the largest possible group. The clear intention of Congress was that the words "charitable purposes" should be construed as synonymous with eleemosynary and that the employees of organizations such as the respondent should not be excluded from the benefits of this Act. It was not the intention of Congress that the employees of all organizations for which a charitable purpose can be found, irrespective of its other objects and activities, should be denied the benefits of this social legislation, but only where the corporation is organized and operated *exclusively* for charitable purposes. The question of obtaining revenue is immaterial when it is compared with the highly important consideration which is that the decision denies wrongfully the benefits of this Act, and, in effect, the benefits of the Federal Social Security Act and similar unemployment compensation acts throughout the states, to the employees of many organizations contrary to the intent of the legislature. The decision of the United States Court of Appeals for the District of Columbia, which drastically narrows the coverage of social legislation such as the District of Columbia Unemployment Compensation Act, will, therefore, have a serious and detrimental effect upon the whole social security program in the United States.

3. The decision of the United States Court of Appeals for the District of Columbia passes on a question of substance relating to the construction of a statute of Congress, which has not been but which should be settled by this Court. It is the first Federal Court decision involving the question of exemption of a corporation under the provisions of any unemployment compensation legislation. The decision announces general and far-reaching principles in this new field of jurisprudence which should be reviewed by this Court.

WHEREFORE, it is respectfully submitted that this petition for certiorari to review the decision of the United States

Court of Appeals for the District of Columbia should be granted.

District Unemployment Compensation Board

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